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7 **BEFORE THE**  
8 **BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4209

12 **JEANNETTE PADILLA**

714 Grand Street D

Nipomo, CA 93444

**DEFAULT DECISION AND ORDER**

13 **Pharmacy Technician Registration No. TCH**  
14 **103465**

[Gov. Code, §11520]

15 Respondent.

16  
17 **FINDINGS OF FACT**

18 1. On or about October 9, 2012, Complainant Virginia K. Herold, in her official  
19 capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No.  
20 4209 against Jeannette Padilla (Respondent) before the Board of Pharmacy. (Accusation attached  
21 as Exhibit A.)

22 2. On or about June 29, 2010, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 103465 to Respondent. The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought in Accusation No. 4209  
25 and will expire on March 31, 2014, unless renewed.

26 3. On or about November 19, 2012, Respondent was served by Certified and First Class  
27 Mail copies of the Accusation No. 4209, Statement to Respondent, Notice of Defense, Request  
28 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
3 record was and is: 714 Grand Street D, Nipomo, CA 93444.

4 4. Service of the Accusation was effective as a matter of law under the provisions of  
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
6 124.

7 5. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
10 of the accusation not expressly admitted. Failure to file a notice of defense shall  
11 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
12 may nevertheless grant a hearing.

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
14 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4209.

15 7. California Government Code section 11520 states, in pertinent part:

16 (a) If the respondent either fails to file a notice of defense or to appear at the  
17 hearing, the agency may take action based upon the respondent's express admissions  
18 or upon other evidence and affidavits may be used as evidence without any notice to  
19 respondent.

20 8. Pursuant to its authority under Government Code section 11520, the Board finds  
21 Respondent is in default. The Board will take action without further hearing and, based on the  
22 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
23 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
24 file at the Board offices regarding the allegations contained in Accusation No. 4209, finds that the  
25 charges and allegations in Accusation No. 4209, are separately and severally, found to be true and  
26 correct by clear and convincing evidence.

27 9. Taking official notice of its own internal records, pursuant to Business and  
28 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
and Enforcement is \$1,365.00.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Jeannette Padilla has subjected  
3 her Pharmacy Technician Registration No. TCH 103465 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
6 Registration based upon the following violations alleged in the Accusation which are supported  
7 by the evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Bus. & Prof. Code, §§ 4301(l) and 490 (Convictions of Substantially Related Crime:  
9 Penal Code section 368(e) [elder/dependant adult theft]) and

10 b. Bus. & Prof. Code, § 4301(f) (Acts Involving Dishonesty, Fraud, or Deceit).

11 ORDER

12 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 103465, heretofore  
13 issued to Respondent Jeannette Padilla, is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
15 written motion requesting that the Decision be vacated and stating the grounds relied on within  
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.  
18 This Decision shall become effective on March 3, 2013.

19 It is so ORDERED ON January 31, 2013.

20 BOARD OF PHARMACY  
21 DEPARTMENT OF CONSUMER AFFAIRS  
22 STATE OF CALIFORNIA

23   
24 By \_\_\_\_\_

25 STANLEY C. WEISSER  
26 Board President

27 51204215.DOC  
28 DOJ Matter ID: LA2011505731

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
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Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4209

13 **JEANNETTE PADILLA**  
714 Grand Street D  
Nipomo, CA 93444

**A C C U S A T I O N**

14 **Pharmacy Technician License**  
15 **No. TCH 103465**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about June 29, 2010, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 103465 to Jeannette Padilla (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 4300 provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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1       "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
3 whether the act is a felony or misdemeanor or not.

4       ....

5       "(l) The conviction of a crime substantially related to the qualifications, functions, and  
6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
8 substances or of a violation of the statutes of this state regulating controlled substances or  
9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
11 The board may inquire into the circumstances surrounding the commission of the crime, in order  
12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
15 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
16 of this provision. The board may take action when the time for appeal has elapsed, or the  
17 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
21 indictment."

## 22                                   REGULATORY PROVISIONS

23       8.     California Code of Regulations, title 16, section 1770 states, in pertinent part:

24       "For the purpose of denial, suspension, or revocation of a personal or facility license  
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

### 3 COST RECOVERY

4 9. Section 125.3 states, in pertinent part, that the Board may request the administrative  
5 law judge to direct a licensee found to have committed a violation or violations of the licensing  
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
7 case.

### 8 FIRST CAUSE FOR DISCIPLINE

#### 9 (Convictions of Substantially Related Crimes)

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
12 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
13 duties of a pharmacy technician. On or about July 12, 2011, after pleading nolo contendere,  
14 Respondent was convicted of one misdemeanor count of violating Penal Code section 368,  
15 subdivision (e) [elder/dependant adult theft], in the criminal proceeding entitled *The People of the*  
16 *State of California v. Jeannette Padilla* (Super. Ct. San Luis Obispo County, 2011, No.  
17 M000457750). The Court placed Respondent on 3 years probation, with terms and conditions.  
18 The circumstances surrounding the conviction are that on or about December 22, 2010,  
19 Respondent while working as an in-home provider used the credit card of S.H., the elder or  
20 dependant adult under her care, to make several unauthorized purchases. During an investigation  
21 by the San Luis Obispo Sheriff's Department, Respondent admitted to the officer that she had  
22 bought items for herself and that she was intending to reimburse the victim at some point.

### 23 SECOND CAUSE FOR DISCIPLINE

#### 24 (Acts Involving Dishonest Acts, Fraud, or Deceit)

25 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
26 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to  
27 substantially benefit herself, or substantially injure another. Complainant refers to, and by this  
28 reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

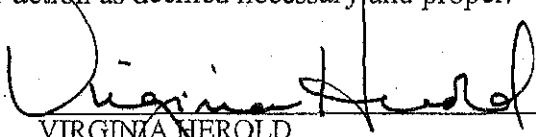


PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 103465, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/9/12

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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